

MONTANA LEGISLATIVE HISTORY

Chapter 578 19 83

Bill H _____ S 214

Original bill & history ☒ C

H. Committee on Human Services

Hearing Date(s) Mar 21 ☒ C

Mar 23 ☒ C

_____ C

_____ C

Date Out Mar 23 ☒ C

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) Feb 02 ☒ C

Feb 14 ☒ C

_____ C

_____ C

Feb 14 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SIGNED: 3/24/83, CHAPTER 193

SB 214 -- E. SMITH, TOWE, HOLLIDAY, ET AL. -- AUTHORIZING THE DEPARTMENT OF INSTITUTIONS TO CERTIFY MENTAL HEALTH PROFESSIONAL PERSONS AND GRANTING THE DEPARTMENT RULEMAKING AUTHORITY
BY REQUEST OF: THE DEPARTMENT OF INSTITUTIONS

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 01/19/83
HEARING: 2/2/83
REPORT: 02/15/83, DO PASS, AS AMENDED
2ND READING: 02/17/83 AYES: 27; NAYS: 14
3RD READING: 02/21/83 AYES: 46; NAYS: 4

TRANSMITTED TO HOUSE: 02/21/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 03/01/83
HEARING: 3/21/83
REPORT: 03/23/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/26/83, BE CONCURRED IN AYES: 66; NAYS: 1
3RD READING: 03/28/83, BE CONCURRED IN AYES: 96; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/29/83
2ND READING: 04/06/83 AYES: 50; NAYS: 0
3RD READING: 04/07/83 AYES: 50; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/14/83
SIGNED: 04/19/83, CHAPTER 578

SB 215 -- DOVER -- TO PROVIDE A 1-WEEK WAITING PERIOD BETWEEN UNEMPLOYMENT COMPENSATION BENEFIT YEARS ... ; ... AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.
BY REQUEST OF: THE DEPARTMENT OF LABOR AND INDUSTRY

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 01/19/83
HEARING: 2/1/83
REPORT: 02/10/83, DO PASS
2ND READING: 02/14/83 AYES: 37; NAYS: 5
3RD READING: 02/17/83 AYES: 37; NAYS: 12

TRANSMITTED TO HOUSE: 02/17/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 03/01/83
HEARING: 3/8/83
REPORT: 03/17/83, BE CONCURRED IN
2ND READING: 03/21/83, BE NOT CONCURRED IN AYES: 74; NAYS: 22
BILL KILLED

SB 216 -- STIMATZ -- PROVIDING A CONSISTENT EFFECTIVE DATE FOR SERVICE RETIREMENT BENEFITS PAID TO MEMBERS OF THE PUBLIC EMPLOYEES', HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS
BY REQUEST OF: THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/19/83
HEARING: 1/26/83
REPORT: 01/27/83, DO PASS
2ND READING: 01/29/83 AYES: 46; NAYS: 0

SENATE BILL NO. 214

INTRODUCED BY E. SMITH, TOWE,
HOLLIDAY, J. BROWN, MAZUREK

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE SENATE

January 19, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 15, 1983	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 16, 1983	Bill printed and placed on members' desks.
February 17, 1983	Second reading, do pass.
February 19, 1983	Correctly engrossed.
February 21, 1983	Third reading, passed. Ayes, 46; Noes, 4. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on Human Services.
March 23, 1983	Committee recommend bill and Statement of Intent be concurring in as amended. Report adopted.
March 26, 1983	Second reading, concurred in. Third reading, concurred in.

IN THE SENATE

March 29, 1983

Returned to Senate with
amendments and Statement of
Intent amendments.

April 6, 1983

Second reading, amendments and
Statement of Intent amendments
concurred in.

April 7, 1983

Third reading, amendments and
Statement of Intent amendments
concurred in. Ayes, 50;
Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

INTRODUCED BY E. Smith, Dan Sullivan, & Brown
Maquith
 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF INSTITUTIONS AND THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO CERTIFY MENTAL HEALTH PROFESSIONAL PERSONS AND GRANTING THE DEPARTMENTS RULEMAKING AUTHORITY; AMENDING SECTION 53-21-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-102, MCA, is amended to read:

"53-21-102. Definitions. As used in this part, the following definitions apply:

(1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(2) "Court" means any district court of the state of Montana.

(3) "Department" means the department of institutions provided for in Title 2, chapter 15, part 23.

(4) "Emergency situation" means a situation in which any person is in imminent danger of death or serious bodily harm from the activity of a person who appears to be seriously mentally ill.

(5) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(6) "Mental health facility" or "facility" means a public hospital or a licensed private hospital which is equipped and staffed to provide treatment for persons with mental disorders or a community mental health center or any mental health clinic or treatment center approved by the department. No correctional institution or facility or jail is a mental health facility within the meaning of this part.

(7) "Next of kin" shall include but need not be limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(8) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

(9) "Peace officer" means any sheriff, deputy sheriff, marshal, policeman, or other peace officer.

(10) "Professional person" means:

(a) a medical doctor; or

(b) a person trained in the field of mental health and certified by the department in accordance with standards of professional licensing boards, federal regulations, and the joint commission on accreditation of hospitals who has been certified as provided for in [section 3] by the department

~~and the department of social and rehabilitation services.~~

(11) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

(12) "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously mentally ill.

(13) "Friend of respondent" means any person willing and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.

(14) "Seriously mentally ill" means suffering from a mental disorder which has resulted in self-inflicted injury or injury to others or the imminent threat thereof or which has deprived the person afflicted of the ability to protect

his life or health. For this purpose, injury means physical injury. No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him to be seriously mentally ill within the meaning of this part.

(15) "State hospital" means the Warm Springs state hospital."

NEW SECTION. Section 2. Certification of professional persons required. No person may act in a professional capacity as provided for in this part unless he is a professional person as defined in 53-21-102.

NEW SECTION. Section 3. Certification of professional persons. (1) The department and the department of social and rehabilitation services shall certify professional persons as defined in 53-21-102(10)(b) for the purpose of this part.

(2) The department and the department of social and rehabilitation services, with reference to recognized national standards in the field of mental health, shall adopt standards and rules governing the certification of professional persons as defined in 53-21-102(10)(b).

NEW SECTION. Section 4. Codification instruction. Sections 2 and 3 are intended to be codified as an integral part of Title 53, chapter 21, part 1, and the provisions of

- 1 Title 53, chapter 21, part 1, apply to sections 2 and 3.

-End-

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 2, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman, Tom Hager on Wednesday, February 2, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Stephens, who was excused. Woody Wright, staff attorney, was also present.

Many, many visitors were also in attendance.

CONSIDERATION OF SENATE BILL 214: Senator Ed Smith of Senate District #1, sponsor of Senate Bill 214, gave a brief resume of the bill. This bill is an act authorizing the Department of Institutions and the Department of Social and Rehabilitation Services to certify mental health professional persons and granting the departments rulemaking authority.

Senator Smith turned the hearing over to Curt Chisolm, the deputy director for the Department of Institutions, in order that he may attend another hearing.

Mr. Chisolm stated that the Department is asking that it be given broad authority to adopt rules imposing requirements on who shall be considered a professional person in the field of mental health. This bill will address the type of education that an individual has received, the type of experience or training, the type of continuing education or training, and the methods of monitoring compliance and maintaining it.

Jerry R. Hoover, representing the Department of Institutions, stood in support of the bill.

Judith Carlson, representing the Department of Social and Rehabilitation Services, stood in support of the bill. She stated that the Department has had no authority in regards to mental health up to this point.

With no further proponents, the meeting was opened to opponents.

Shirley Thennis, representing the Montana Nurses Association, stated her groups opposition to the bill. She said to certify someone who has been certified by the Department as a professional

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PUBLIC HEALTH

is to vague. She stated that it is wrong to give the department rule making authority with such broad guidelines as "with reference to national standards."

The meeting was opened to a question and answer period from the Committee.

Senator Marbut asked if certification is already a law. This is a federal law and nationally accepted, however, it does need to be defined more. Academic creditentials, qualifications are needed with a more specific definition, especially in the best interest of the patient.

Senator Hims1 asked about the educational criteria for certification.

CONSIDERATION OF SENATE BILL 208: Senator Judy Jacobson, chief sponsor of Senate Bill 208, gave a brief resume of the bill. This bill is an act defining a HOSPICE for licensing purposes; requiring the Department of Health, and Environmental Sciences to adopt rules setting standards for licensing a Hospice; requiring department to license a Hospice approved by the Commission on Accreditation of Hospitals.

Senator Jacobson gave a brief resume of the bill. This bill was introduced at the request of the Hospice Exchange Council to further Hospice development in Montana. It has three parts. The first is a definition of hospice on page 4, which would be a new paragraph in a lengthy definition of the principal functions of hospice. It starts with a terminally ill person and his family and describes how hospice helps them deal with the various stresses of dying.

The second part of the bill is on page 9, this gives the state Department of Health and Environmental Sciences the duty to set up standards for hospice programs to meet and provide some legislation guidelines for setting these standards. A hospice team must be medically directed, under a physician's ultimate supervision. The last part of the bill calls for deemed status licensure when a hospice receives JCAH accreditation. This is important to those hospice programs operated within hospitals, which some, but not all, hospice programs are.

Roger Tippy, representing the Montana Hospice Exchange, stated that the hospice movement has been active in Montana for several years; Congress' recognition of hospice as a reimburseable service under medicare gives them reason to ask the legislature

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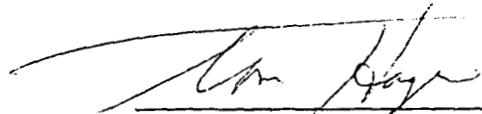
A motion was made by Senator Jacobson that the Statement of Intent for SB 209 be adopted. Motion carried unanimously.

DISPOSTION OF THE AMENDMENTS TO SENATE BILL 214:

A motion was made by Senator Jacobson that the amendments as presented by Judith Carlson be adopted. Motion carried unanimously.

ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety Committee will be held on Friday, February 4, 1983 to consider SB 232, and SB 271.

ADJOURN: With no further business the meeting was adjourned.



Senator Tom Hager

eg

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2/2/

[illegible]

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
JAMES M MANNING	ANACONDA PINTLER Hospice	SB 208	✓	
JOHN J. CORRIGAN	ANACONDA PINTLER Hospice	✓	✓	
Lindy Cochancur	Anacanda Pintler Hospice	✓	✓	
KEVIN MCNEELIS	" "	✓	✓	
Marilyn McKibben	self	✓	✓	
S. Marie Ngil Bruch	self	✓	✓	
Ed B Smith	Senate	SB 214	✓	
Joe Greene	Anacanda Pintler Hospice	SB 208	✓	
Maureen O'Reilly	West-Mont Comm Care	SB 208	✓	
Bonnie Allen	self	SB 208	✓	
Ally P. B. B. B.	self	SB 208	✓	
Wynne James	Hospice of St. Peter	SB 208	✓	
Sue Sundwell	Highlands Hospice	SB 208	✓	
Mary Malysow	Highlands Hospice	SB 208	✓	
Bob Huel	Highlands Hospice	SB 208	✓	
St. Kathleen O'Sullivan	Highlands Hospice	SB 208	✓	
Ruth Quess	Highlands Hospice	SB 208	✓	
Mary Martin	Highland Hospice	SB 208	✓	
Archie Ziegler	Highland Hospice	SB 208	✓	
Chad Smith	Mont Hosp Assn	SB 208	amend	
Lois Tippy	Mt Hospice Exchange Council	SB 208	✓	
Clifford H. Murphy	Mt. Health Assoc. of Mt.	SB 209 SB 214	✓	
Tracy Thomas	Montana Homeless Assn	SB 214 SB 214		
Shirley Howell	Dept. of Institutions	SB 209 SB 214	✓	

STATEMENT OF INTENT

SB 214:

The Department of Institutions is requesting legislation that will give it and the Department of Social and Rehabilitation Services Rule making authority for the certification of professional persons in the mental health field. The Department of Institutions is requesting that it be given broad authority to adopt rules imposing requirements on who shall be considered a professional person in the field of mental health. The Department is required to adopt such rules and it is contemplated that they should address the following:

- a. The types of education that an individual has received, including degrees:
- b. The type of experience or training that he has received that may qualify him for a professional person.
- c. The type of continuing education or training or instruction that may be necessary to maintain such certification.
- d. The standards for waiver of requirements for specific reasons, if any.
- e. Methods of monitoring compliance and maintaining it, and
- g. Specific due process procedures for the revocation of certification.

-END-

NAME: Murphy, Clifford H. DATE: 2/2/83

ADDRESS: 1301 Rimrock Rd, Billings, MT 591.

PHONE: 252-1685

REPRESENTING WHOM? Board, Mental Health Assoc. of MT.

APPEARING ON WHICH PROPOSAL: SB 214

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: Would like to see two public
representatives, perhaps one from d.d.
proponent group(s) and one from mental heal.
group proponents, and to learn of
committee meetings on rule-making and
credentials

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Murphy, Dennis DATE: 7/2/83

ADDRESS: _____

PHONE: 227-6328

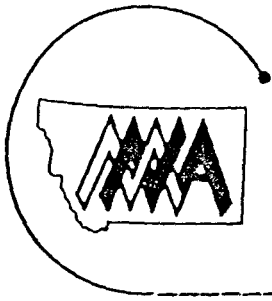
REPRESENTING WHOM? Montana Nurses Assn.

APPEARING ON WHICH PROPOSAL: 214

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒ _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

I am Shirley Thennis of the Montana Nurses' Association. I speak in opposition to SB-214.

To define a professional person only as someone who has been certified by the department is too vague. Are these professionals who have already achieved individual licensure through an appropriate licensing body or is this certification in lieu of professional licensure? If they are already licensed, why do they need department certification? If they are not already licensed, on what criteria is the certification being given?

I believe it to be wrong to give a department certifying powers without any reference to the qualifications of those doing the certifying.

It is doubly wrong to give a department rule making authority with such broad guidelines as "with reference to national standards".

Thank you for giving me the opportunity to voice my concerns regarding this bill.

Proposed Amendments to Senate Bill No. 214

1. Title, lines 6 and 7.
Following: "DEPARTMENT OF INSTITUTIONS"
Strike: "AND THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES"
 2. Title, line 8.
Strike: DEPARTMENTS
Insert: DEPARTMENT
 3. Page 3, line 1.
Strike: line 1 on page 3 in its entirety.
 4. Page 4, line 15 through 16.
Following: "The department"
Strike: "and the department of social and rehabilitation services"
 5. Page 4, lines 18 and 19.
Following: "The department"
Strike: "and the department of social and rehabilitation services."
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MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 14, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Monday, February 14, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Woody Wright, staff attorney was also present.

There were also visitors also in attendance.

CONSIDERATION OF SENATE BILL 298: Senator Tom Towe of Senate District 34, chief sponsor of Senate Bill 298, gave a brief resume of the bill. This bill is an act revising the determination of distance limitations for the issuance of a liquor license; excepting licenses already issued; and repealing sections 16-4-409 and 16-4-410, MCA.

Senator Towe stated that Senate Bill 298 undoes a problem created by the last legislature. The present law reads the distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured over the shortest public road or highway from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town. Senator Towe stated that he had a client point out how this present law could be taken advantage of by individuals. Senator Towe would like the 5 miles to be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town. At the present time a \$10,000 investment could be turned into a \$135,000 investment in a very short order, by taking advantage of the system.

Mr. Howard Hefflefinger, representing the Department of Revenue, stated that the straight line method of measuring is far superior. He supports the bill.

There were no opponents to the bill.

The meeting was opened to a question and answer period from the Committee.

Senator Norman asked is the whole impact of the bill is on page 6, lines 12 and 13. They are along with a section on page 10.

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DISPOSITION OF SENATE BILL 214: This bill is an act authorizing the Department of Institutions and the Department of SRS to certify mental health professional persons and granting the departments rulemaking authority.

The proposed amendments take out the Department of SRS. At the present time they have been certifying without rulemaking authority.

A motion was made by Senator Christiaens that the amendments proposed for SB 214 be adopted. Motion carried.

A motion was made by Senator Christiaens that Senate Bill 214 receive a DO PASS, as amended recommendation from the Committee. Motion carried. See exhibit 2 for the Roll Call Vote Sheet.

Senator Norman said that perhaps the statement of intent for SB 214 should be amended to reflect the changes in the bill.

A motion was made by Senator Marbut that the word "broad" on line 6 be stricken. Motion carried.

A motion was made by Senator Norman that the statement of intent be adopted as amended. Motion carried.

DISPOSITION OF SENATE BILL 395: This bill is an act providing specific authority for the Department of SRS and the Department of Institutions to certify professional persons serving developmentally disabled persons; requiring the departments to adopt rules governing that certification.

Senator Hims1 stated that he did not like the word "professional" in the bill. What constitutes "professional?"

Senator Marbut stated that he feels SB 214 and SB 393 are actually very different.

Senator Christiaens asked where the complaints have been coming from that brought about this bill.

Judy Carlson stated that the departments are trying to protect the state from a lawsuit.

A motion was made by Senator Jacobson that Senate Bill 395 DO PASS. Motion failed. See Roll Call Sheet.

Senator Hager asked if anyone objected to reversing the vote. Everyone felt that this would be fine. Therefore, SB 395 receive a DO NOT PASS recommendation from the Committee.

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2/14/8

[illegible]

Proposed Amendments to Senate Bill No. 214

1. Title, lines 6 and 7.
Following: "DEPARTMENT OF INSTITUTIONS"
Strike: "AND THE DEPARTMENT OF SOCIAL AND REHABILITATION
SERVICES"
2. Title, line 8.
Strike: DEPARTMENTS
Insert: DEPARTMENT
3. Page 3, line 1.
Strike: line 1 on page 3 in its entirety.
4. Page 4, line 15 through 16.
Following: "The department"
Strike: "and the department of social and rehabilitation
services"
5. Page 4, lines 18 and 19.
Following: "The department"
Strike: "and the department of social and rehabilitation
services."

STATEMENT OF INTENT

SB 214:

The Department of Institutions is requesting legislation that will give it ~~and the Department of Social and Rehabilitation Services~~ (Rule making) - One WC authority for the certification of professional persons in the mental health field. The Department of Institutions is requesting that it be given (broad) authority to adopt rules imposing requirements on who shall be considered a professional person in the field of mental health. The Department is required to adopt such rules and it is contemplated that they should address the following:

- a. ~~The~~ types of education that an individual has received, including degrees; and
- b. ~~The~~ type of experience or training that he has received that may qualify him for a professional person; and
- c. ~~The~~ type of continuing education or training or instruction that may be necessary to maintain such certification; and
- d. ~~The~~ standards for waiver of requirements for specific reasons, if any; and
- e. ~~Methods~~ of monitoring compliance and maintaining it; and
- g. S Specific due process procedures for the revocation of certification.

-END-

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SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date FEBRUARY 14, 1983 SENATE Bill No. 214 Time

NAME	YES	NO
SENATOR TOM HAGER	✓	
SENATOR REED MARBUT	✓	
SENATOR MATT HIMSL		✓
SENATOR STAN STEPHENS	excused	
SENATOR CHRIS CHRISTIAENS	✓	
SENATOR JUDY JACOBSON	✓	
SENATOR BILL NORMAN	✓	

Charles Dransky
Secretary

Tom Hager
Chairman

Motion: A motion was made by Senator Christiaens that SB 214
receive a DO PASS recommendation from the Committee. Motion
carried.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

.....FEBRUARY 14..... 19 83.....

MR.PRESIDENT:.....

We, your committee onPUBLIC HEALTH, WELFARE AND SAFETY.....

having had under considerationStatement of Intent,..... SENATE..... Bill No. 214,.....

Respectfully report as follows: That.....Statement of Intent,.....SENATE..... Bill No.....214,....
be adopted.

STATEMENT OF INTENT RE: SB 214

The Department of Institutions is requesting legislation that will give it rulemaking authority for the certification of professional persons in the mental health field. The Department Of Institutions is requesting that it be given authority to adopt rules imposing requirements on who shall be considered a professional person in the field of mental health. The Department is required to adopt such rules and it is contemplated that they should address the following:

- a. the types of education that an individual has received, including degrees; and
- b. the type of experience or training that he has received that may qualify him for a professional person; and
- c. the type of continuing education or training or instruction that may be necessary to maintain such certification; and

EX-155X

.....CONTINUED.....

J.C. id

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STATEMENT OF INTENT
SENATE BILL 214

..... FEBRUARY 14, 1983

- d. the standards for waiver of requirements for specific reasons, if any; and
- e. methods of monitoring compliance and maintaining it; and
- f. specific due process procedures for the revocation of certification.

5. Page 4, lines 18 and 19.
Following: "The department"
Strike: "and the department of social and rehabilitation
services"

And, as so amended,
DO PASS

Statement of Intent Attached

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
March 21, 1983

The meeting of the Human Services Committee held on March 21, 1983, in Room 224 A of the Capitol Building, at 12:30 p.m., was called to order by Chairman Marjorie Hart. All members were present, except Reps. Farris, Menahan and Winslow, who were absent.

SENATE BILL 208

SEN. JACOBSON, sponsor. This is a bill to provide for licensure of hospice programs and was introduced at the request of the Hospice Exchange Council to further hospice development in the state of Montana. She read through the bill with the Committee.

PROPOSERS:

ROGER TIPPY, representing the Montana Hospice Exchange, urged support of SENATE BILL 208. He stated that Congress' recognition of hospice as a reimbursable service under medicare gives them reason to ask the Legislature to license hospice programs. Nothing in this bill calls for the licensing or certification of any individual or any profession (EXHIBIT 1).

SUE TWIDWELL, representing the Montana Hospice Exchange Council, spoke in support of the hospice legislation. This organization is a group of thirteen individual hospice units each developed to fit the situation within their own communities. This past year, the Montana Hospice Exchange has felt they need to license hospices in order to help protect consumers that might be using hospice services. With the impending reimbursement from the federal government, they could see some potential problems and they wanted to bypass those with a licensing procedure. The three models for licensing standards were presented to the Committee (EXHIBIT 2).

BONNIE ADDY, department head of Hospice of St. Peter's, Helena, urged support of this bill.

OPPOSERS: None

SEN. JACOBSON closed saying it is very important that our hospices are of very fine quality and she felt this licensing bill is very important.

QUESTIONS:

REP. SWIFT: Is it necessary to have this license in order to get reimbursement.

ROGER TIPPY: No.

REP. BRAND: If you are under this legislation, will this mean you are going to be providing some health care facilities for medicaid and medicare?

SUE TWIDWELL: Not necessarily. This is simply to license every hospice in the state of Montana. The federal government has gotten into this act by amending the Medicare Act federally to make hospice service a reimbursable service.

REP. BRAND: What about the state of Montana? Would they participate in the reimbursement program?

SUE TWIDWELL: I don't know yet. We may have to in order to survive.

REP. BRAND: When you go into one of these homes, does that person help pay for the expenses or is it all voluntary money?

SUE TWIDWELL: It depends on the type of program that it is. A lot of hospital-based hospices and home-health based agency hospices are already medicare and medicaid certified. There are specific areas that they can be reimbursed for.

REP. BRAND: How many of those are there in the state?

SUE TWIDWELL: Probably two. Our independent community based--we do not charge anything at all. We ask for donations and memorials.

REP. HANSEN: In your licensing procedure, is this just for medically trained professionals or will this also license your volunteers who are not nurses?

SUE TWIDWELL: This would license the program--not individuals. I would anticipate some standards established that volunteers would meet a certain minimum criteria of education.

REP. HANSEN: You would still continue to use someone who was interested in the program trained by the hospice program.

SUE TWIDWELL: Yes. We have to have the volunteers. They are the backbone of the program.

CHAIRMAN HART closed the hearing on SENATE BILL 208.

REP. BROWN will carry SENATE BILL 208 on the House floor.

SENATE BILL 214

SEN. SMITH, sponsor. This bill was carried by CURT CHISHOLM, Department of Institutions, who said that SENATE BILL 214 is the companion bill to SENATE BILL 395 which gives rulemaking authority to the Department of Social and Rehabilitation Services to certify professionals in field of developmental disabled. SENATE BILL 214 gives the Department of Institutions new rulemaking authority as it relates to certifying mental health professionals. We are also eliminating references to

certain kinds of criteria in the law simply because it would be better if, through our rulemaking authority, we get more specific kinds of criteria developed to clarify the kinds of things we will be looking at in order to certify a mental health professional. What this mental health professional entity is--it is a unique kind of qualifications which contains both the Mental Health Act and the Developmental Disability Act. Mental health professionals are the only people who can testify in a court of law as to the seriousness of a mental disease or the only one that can testify as to what kind of treatment environment this person needs.

JUDITH CARLSON, Department of Social and Rehabilitation Services, urged support of this legislation.

OPPONENTS:

REP. BRAND stated that the reason he was opposing the rule-making procedure was they are taking the law out of the hands of the Legislature and putting it into their own hands. He did not agree with rulemaking by departments.

JERRY LOENDORF, representing the Montana Medical Association, said he would like to go through the amendments. Page 2, lines 22-25 - definition of a professional person--the language that was stricken is how a person is now defined "trained in the field of mental health and certified by the department in accordance with standards of professional licensing boards, federal regulations, and the joint commission on accreditation of hospitals". The next phrase tells you "a person who has been certified as provided for in [section 3] by the department" only. In referring to section 3, page 4, lines 15-18, we start to go in a circle. Section 3 says, "The department shall certify professional persons as defined in 53-21-102(10)(b) which is the language we just read. A further amendment, page 4, line 19, simply eliminates the Department of SRS. What that says--the Department with reference to recognized national standards in the field of mental health shall certify standards or rules governing certification of professional persons as defined back in the section we just read. It seems we have substituted "recognized national standards". What are "recognized national standards"? Who recognizes them? Why aren't they presented with this bill? If we go back again to page 2, lines 22-25, we can see what we are substituting "recognized national standards" for. The standards now are the standards of the Professional Licensing Board of the state of Montana. How would these "national recognized standards" be different from that now required? We can't tell from reading this bill what is supposed to be done.

JAMES JOHNSON, representing Montana Legal Services, had the same concerns as JERRY LOENDORF. The Supreme Court was very much concerned because a person had been allowed to testify as a professional person that they did not feel was qualified. He thought these amendments were going to allow for better rules regarding certified professionals.

CURT CHISHOLM closed stating they eliminated reference to the national standards that were already in the Act because they are trying to amend the bill to get it back to what the author wanted in the first place. The Joint Commission on Accreditation of Hospitals (JCAH) accreditation standards do not recognize, nor are they aware of, the specific kinds of issues in the Mental Health Act and the Developmental Disability Act. National standards do not recognize that Montana has a unique provision in the law that allows, besides doctors, other kinds of practioners to be certified under the Mental Health Act and the Developmental Disability Act. We have to come up with very precise kinds of definitions. There are a lot of professional people who are professionally trained who do not want to apply to be professional people because they don't want to go into court to testify is a person is mentally ill or not. That is the purpose for these rules. We will develop special criteria for those people who want to be certified as mental health professionals. We have been doing it since 1975 and we simply want to clarify our rulemaking authority by the passage of this bill. We hope to be able, through training and working with various licensing boards, to come up with better criteria.

QUESTIONS:

REP. KEYSER: Because of the language the Senate cut out, we are running around in circles. If the language in the Statement of Intent were incorporated into the bill under the certification of professional persons, I wouldn't have a problem.

CURT CHISHOLM: We don't have any problem with that at all if it was incorporated into the body of the law.

REP. JONES: What are you going to do with REP. BRAND's bill and you don't have a Department of Institutions?

CURT CHISHOLM: Since we never anticipate what the Legislature will do, this could still be changed by the Code Commissioner.

REP. FABREGA: Regarding JERRY LOENDORF'S comments, if the opinion of the department is a fact then the opinion becomes a fact in Section 3. He realized in Section 3, rules are being adopted--but isn't that going around it?

CURT CHISHOLM: I guess that it is. The meat of the bill is subsection 2 of Section 3 that says we will develop these rules with reference to recognized national standards in the field of mental health and shall adopt standards and rules governing the certification of professional persons as defined in 53-21-102(10)(b). The reference is to say that a professional person is a person that is certified by the department; but it has to be a person that is certified against whatever standards we are able to come up with referencing other professional organizations.

REP. FABREGA: How much of an idea do you have at this time as to how much those rules are going to change. Could you, before the session adjourns, come up with the kinds of rules so we could go back to REP. KEYSER'S recommendation regarding the Statement of Intent?

CURT CHISHOLM: We could suggest that the statement that is in the Statement of Intent be incorporated into the body of the bill. I think we need a dual standard in certifying professional persons--one that relates to a certain level of expertise that will allow these people to testify in court and be recognized in court as someone who knows what they are talking about and another standard that would relate to perfunctory things a professional person needs to do.

CHAIRMAN HART closed the hearing on SENATE BILL 214.

SENATE BILL 324

SEN. TOWE, sponsor. This bill would establish a treatment center for mentally ill youth. The bill restricts admissions to the center and to Warm Springs state hospital, and addresses the disposition of mentally ill "youth in need of supervision". The Department of Institutions is required to adopt rules addressing the operation of the Montana Youth Treatment Center, including admission, treatment, and discharge provisions. He stated that people can be committed only by court commitment. Children cannot voluntarily commit themselves because they can't make those kinds of decisions.

PROPOSERS:

VISITOR'S REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL SENATE BILL 214

DATE 3-21-83

SPONSOR SENATOR SMITH

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
March 23, 1983

The meeting of the Human Services Committee held on March 23, 1983, at 12:30 p.m. in Room 224A of the Capitol Building was called to order by Chairman Marjorie Hart. All members were present except Reps. Brand, Menahan and Seifert.

SENATE BILL 266

SEN. MARBUT, sponsor. The purpose of this bill is to establish procedures and availability of the use of eye banks and to make available to citizens of Montana eye bank tissue on a much wider scale than we now have. Most states in our area have undertaken this project. It is limited in Montana. It prevents the citizens of the state from having available tissue in connection with eye surgery. It also inhibits us in cooperating with other states. Being a supplier will give us a much better footing in being a recipient. This is really mandated by the fact that procedures in eye surgery and collection have been revolutionized in the last few years. There is a demand nationwide of 30,000 tissue transplants and about 8,000 donors. We would be able to cooperate around the country making available tissue for eye surgeries. He read through the bill with the Committee.

PROPONENTS:

JOHN SALISBURY, Ophthalmologist, representing Montana Eye Research, supported SENATE BILL 266. He said they were trying to get tissue that will replace corneas. Techniques in the past fifteen years have revolutionized corneal transplantation. Having a law like this would help prevent people from going out of state to have surgery. There is a demand for tissue. This law asks to allow to free up physicians' time to go and take the tissue out. What we would like is to free up their time and train technicians to help us get tissue. You can't do eye banking 8-5, five days a week. We need to be able to get people on a voluntary basis that are not as highly trained as physicians. The Eye Bank of America has set up guidelines to organize and set standards to make sure quality is assured. He supported this bill because he thought it was in the spirit of public service.

JERRY LOENDORF, representing the Montana Medical Association, stated there are only so many ophthalmologists in the state of Montana; by training technicians we are allowing them to have persons on the scene to take and preserve that tissue so it is available to somebody who needs it. He supported this legislation.

SENATE BILL 150

SEN. STORY, sponsor. This bill would provide that for privately owned public swimming pools, no lifeguard is required if warning is given.

REP. DARKO: Moved that we RECONSIDER the motion to table SENATE BILL 150.

REP. DARKO: Moved that SENATE BILL 150 BE CONCURRED IN.

The motion was voted on and PASSED UNANIMOUSLY.

SENATE BILL 214

SEN. SMITH, sponsor. This bill authorizes the Department of Institutions to certify mental health professional persons and grant the department rulemaking authority.

REP. KEYSER: Moved that the amendments be accepted (EXHIBIT 5).

REP. KEYSER: I thought the bill was pretty openended and I suggested that they take that language and specify what rules and regulations they were going to be addressing and not leave it so wide open. I would rather see it in the statute than in the Statement of Intent.

DAVE BOHYER: It is not precisely the same language that was in the Statement of Intent. It is a little more restrictive.

REP. WINSLOW: In section 3, it says certification of professional persons. Is somebody going to have a plaque on their wall that says "Certified Professional Person".

REP. DOZIER: "Professional person" is defined on page 2, subsection (9).

REP. WINSLOW: Are we going into a mental health center and certify everybody in there or are you going to deal with just those who are dealing with mental health problems?

CURT CHISHOLM: We will certify only those who apply to be certified. In order to make the Mental Health Act work, most people who work and apply in the mental health center or in-patient facility are going to have to be certified.

REP. WINSLOW: What if they don't meet the criteria and are working there at the present time.

CURT CHISHOLM: If they can't be certified, then they can't perform the 28 specific functions required of a mental health professional. A mental health professional is the only one who can certify in court that a person is mentally ill.

REP. FARRIS: What is the purpose of this bill?

CURT CHISHOLM: What they have when they are certified is the ability to perform 28 specific functions. There are 28 things a mental health person can do. We need people to be certified in order to make the Mental Health Act work. They are the only ones who are allowed to monitor people in restraint.

REP. FARRIS: These people are already licensed. Why do they have to be further certified.

CURT CHISHOLM: They are licensed by their own boards. They need to be certified as a mental health professional.

REP. FABREGA: Is that a state mental health act or are there federal guidelines that have to be followed?

CURT CHISHOLM: That is the state Mental Health Act.

REP. WINSLOW: One of the strange things that we get ourselves into and we hear in this process that the insurance companies are always up here in arms; they don't want more people licensed. But that is protection to them--if they aren't licensed and they aren't certified, they don't cover and they don't have to pay.

REP. BROWN: Page 4, line 18 refers back to the section on page 2--the definition--they cross-reference each other but the one has been stricken. I don't know if it makes sense the way it is now.

DAVE BOHYER: Section 3 will be codified so it makes sense.

The motion to accept the amendments was voted on and PASSED UNANIMOUSLY.

REP. CONNELLY: Moved that SENATE BILL 214 BE CONCURRED IN AS AMENDED.

The motion was voted on and PASSED with REP. DRISCOLL voting no.

SENATE BILL 395

SEN. SMITH, sponsor. This bill provides specific authority for the Department of SRS and the Department of Institutions to certify professional persons serving developmentally disabled persons; requiring the departments to adopt rules governing that certification.

STANDING COMMITTEE REPORT

SENATE BILL 214
Page 1 of 2

March 23, 1983

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration SENATE Bill No. 214

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF INSTITUTIONS AND THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO CERTIFY MENTAL HEALTH PROFESSIONAL PERSONS AND GRANTING THE DEPARTMENTS RULEMAKING AUTHORITY; AMENDING SECTION 53-21-102, MCA."

Respectfully report as follows: That SENATE Bill No. 214

BE AMENDED AS FOLLOWS:

1. Page 4, line 23 of SB 214.

Following: "53-21-102(10)(b)."

Insert: "(3) The rules for certification must address, but are not limited to:

- (a) the type of education that an individual has received, including degrees;
- (b) the type of experience or training received by the individual;
- (c) continuing education, training, instruction, and work experience necessary to maintain certification;
- (d) an examination instrument to be used to determine an individual's proficiency and understanding of mental health laws, diagnosis and treatment procedures;
- (e) the procedure for categorical certification qualifying the level of professional authority and responsibility of an individual; and
- (f) specific procedures for certification, recertification, and revocation of certification."

**AND AS AMENDED
BE CONCURRED IN**

~~EXHIBIT~~

MARJORIE HART

Chairman.

AMENDMENT TO STATEMENT OF INTENT

BE AMENDED AS FOLLOWS:

1. Statement of Intent

Page 1, lines 11 through 25.

Following: "address" on line 11

Strike: the remainder of line 11 through line 25

Insert: "the provisions of [section 3] of SB 214."

Chairman.

1 STATEMENT OF INTENT

2 SENATE BILL 214

3

4 The Department of Institutions is requesting
5 legislation that will give it rulemaking authority for the
6 certification of professional persons in the mental health
7 field. The Department of Institutions is requesting that it
8 be given authority to adopt rules imposing requirements on
9 who shall be considered a professional person in the field
10 of mental health. The Department is required to adopt such
11 rules and it is contemplated that they should address the
12 followings:

13 a--the-types--of--education--that--an--individual--has
14 received--including-degrees--and

15 b--the--type--of--experience--or--training--that--he--has
16 received--that--may--qualify--him--for--a--professional--person--and

17 c--the--type--of--continuing--education--or--training--or
18 instruction--that--may--be--necessary--to--maintain--such
19 certification--and

20 d--the--standards--for--waiver--of--requirements--for
21 specific-reasons--if-any--and

22 e--methods--of--monitoring--compliance--and--maintaining
23 it--and

24 f--specific--due-process-procedures--for--the--revocation
25 of--certification. THE PROVISIONS OF [SECTION 3] OF SB 214.

28

1 SENATE BILL NO. 214
 2 INTRODUCED BY E. SMITH, TOWE,
 3 HOLLIDAY, J. BROWN, MAZUREK
 4 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 7 DEPARTMENT OF INSTITUTIONS ~~AND THE DEPARTMENT OF SOCIAL AND~~
 8 ~~REHABILITATION~~---SERVICES TO CERTIFY MENTAL HEALTH
 9 PROFESSIONAL PERSONS AND GRANTING THE ~~DEPARTMENTS~~ DEPARTMENT
 10 RULEMAKING AUTHORITY; AMENDING SECTION 53-21-102, MCA."
 11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 53-21-102, MCA, is amended to read:
 14 "53-21-102. Definitions. As used in this part, the
 15 following definitions apply:
 16 (1) "Board" or "mental disabilities board of visitors"
 17 means the mental disabilities board of visitors created by
 18 2-15-211.
 19 (2) "Court" means any district court of the state of
 20 Montana.
 21 (3) "Department" means the department of institutions
 22 provided for in Title 2, chapter 15, part 23.
 23 (4) "Emergency situation" means a situation in which
 24 any person is in imminent danger of death or serious bodily
 25 harm from the activity of a person who appears to be

1 seriously mentally ill.
 2 (5) "Mental disorder" means any organic, mental, or
 3 emotional impairment which has substantial adverse effects
 4 on an individual's cognitive or volitional functions.
 5 (6) "Mental health facility" or "facility" means a
 6 public hospital or a licensed private hospital which is
 7 equipped and staffed to provide treatment for persons with
 8 mental disorders or a community mental health center or any
 9 mental health clinic or treatment center approved by the
 10 department. No correctional institution or facility or jail
 11 is a mental health facility within the meaning of this part.
 12 (7) "Next of kin" shall include but need not be
 13 limited to the spouse, parents, adult children, and adult
 14 brothers and sisters of a person.
 15 (8) "Patient" means a person committed by the court
 16 for treatment for any period of time or who is voluntarily
 17 admitted for treatment for any period of time.
 18 (9) "Peace officer" means any sheriff, deputy sheriff,
 19 marshal, policeman, or other peace officer.
 20 (10) "Professional person" means:
 21 (a) a medical doctor; or
 22 (b) a person ~~trained in the field of mental health and~~
 23 ~~certified by the department in accordance with standards of~~
 24 ~~professional licensing boards, federal regulations, and the~~
 25 ~~joint commission on accreditation of hospitals who has been~~

1 ~~certified as provided for in [section 3] by the department~~
 2 ~~and the department of social and rehabilitation services.~~

3 (11) "Reasonable medical certainty" means reasonable
 4 certainty as judged by the standards of a professional
 5 person.

6 (12) "Respondent" means a person alleged in a petition
 7 filed pursuant to this part to be seriously mentally ill.

8 (13) "Friend of respondent" means any person willing
 9 and able to assist a seriously mentally ill person or person
 10 alleged to be seriously mentally ill in dealing with legal
 11 proceedings, including consultation with legal counsel and
 12 others. The friend of respondent may be the next of kin, the
 13 person's conservator or legal guardian, if any,
 14 representatives of a charitable or religious organization,
 15 or any other person appointed by the court to perform the
 16 functions of a friend of respondent set out in this part.
 17 Only one person may at any one time be the friend of
 18 respondent within the meaning of this part. In appointing a
 19 friend of respondent, the court shall consider the
 20 preference of the respondent. The court may at any time, for
 21 good cause shown, change its designation of the friend of
 22 respondent.

23 (14) "Seriously mentally ill" means suffering from a
 24 mental disorder which has resulted in self-inflicted injury
 25 or injury to others or the imminent threat thereof or which

1 has deprived the person afflicted of the ability to protect
 2 his life or health. For this purpose, injury means physical
 3 injury. No person may be involuntarily committed to a mental
 4 health facility or detained for evaluation and treatment
 5 because he is an epileptic, mentally deficient, mentally
 6 retarded, senile, or suffering from a mental disorder unless
 7 the condition causes him to be seriously mentally ill within
 8 the meaning of this part.

9 (15) "State hospital" means the Warm Springs state
 10 hospital."

11 NEW SECTION. Section 2. Certification of professional
 12 persons required. No person may act in a professional
 13 capacity as provided for in this part unless he is a
 14 professional person as defined in 53-21-102.

15 NEW SECTION. Section 3. Certification of professional
 16 persons. (1) The department ~~and the department of social and~~
 17 ~~rehabilitation services~~ shall certify professional persons
 18 as defined in 53-21-102(10)(b) for the purpose of this part.

19 (2) The department ~~and the department of social and~~
 20 ~~rehabilitation services~~, with reference to recognized
 21 national standards in the field of mental health, shall
 22 adopt standards and rules governing the certification of
 23 professional persons as defined in 53-21-102(10)(b).

24 (3) THE RULES FOR CERTIFICATION MUST ADDRESS, BUT ARE
 25 NOT LIMITED TO:

1 (A) THE TYPE OF EDUCATION THAT AN INDIVIDUAL HAS
2 RECEIVED, INCLUDING DEGREES;

3 (B) THE TYPE OF EXPERIENCE OR TRAINING RECEIVED BY THE
4 INDIVIDUAL;

5 (C) CONTINUING EDUCATION, TRAINING, INSTRUCTION, AND
6 WORK EXPERIENCE NECESSARY TO MAINTAIN CERTIFICATION;

7 (D) AN EXAMINATION INSTRUMENT TO BE USED TO DETERMINE
8 AN INDIVIDUAL'S PROFICIENCY AND UNDERSTANDING OF MENTAL
9 HEALTH LAWS, DIAGNOSIS, AND TREATMENT PROCEDURES;

10 (E) THE PROCEDURE FOR CATEGORICAL CERTIFICATION
11 QUALIFYING THE LEVEL OF PROFESSIONAL AUTHORITY AND
12 RESPONSIBILITY OF AN INDIVIDUAL; AND

13 (F) SPECIFIC PROCEDURES FOR CERTIFICATION,
14 RECERTIFICATION, AND REVOCATION OF CERTIFICATION.

15 NEW SECTION. Section 4. Codification instruction.
16 Sections 2 and 3 are intended to be codified as an integral
17 part of Title 53, chapter 21, part 1, and the provisions of
18 Title 53, chapter 21, part 1, apply to sections 2 and 3.

-End-